

## REMARKS

### I. Status of the Application

Claims 8-21 are pending in this application. In the November 17, 2005 office action, the Examiner (i) objected to the disclosure because of an alleged informality, and (ii) rejected claims 8-21 under 35 U.S.C. § 103(a), as allegedly being unpatentable over the reference entitled "Application of Data Acquisition and Power Control to Regional and Central Control System", by D.J. Modell, Advances in Instrumentation and Control, Vol. 48, Part 02, 1993 (hereinafter, "Modell") in view of JP publication no. 10051473 to Yuji (hereinafter, "Yuji"). In this response, the Applicant (i) has amended the disclosure to remove the alleged informality, and (ii) traverses the examiner's rejection under 35 U.S.C. § 103(a).

### II. The Examiner's Rejection of Claim 15 Under 35 U.S.C. § 103(a) Should be Withdrawn

#### A. Applicant's Claim 15

Applicant's claimed invention, as set forth in independent claim 15, is directed to an arrangement for information transmission for remote reading of electricity meters over a communication system. The arrangement comprises a plurality of communication channels divided into communication groups, wherein the communication channels within a communication group have the same communication properties. A substation is associated with a first communication group. A central station is coupled to the plurality of communication channels, and the central station operable to (a) determine whether any communication channel of the first communication group is free, (b) acquire meter reading data over a free channel of the first communication group if it is determined that any communication channel of the first

communication group is free, and (c) wait and repeat step c if it is determined that no communication channel of the first communication group is free.

B. Modell

In the November 17, 2005 Office action, the Examiner stated that Modell does not teach a central station operable to “(a) determine whether any communication channel of the first communication group is free, and (c) waiting and repeating the step c if it is determined that no communication channel of the first communication group is free.” (November 17, 2005 office action, p. 4). Applicant agrees that Modell at least does not disclose the foregoing.

The examiner then argued that “One skill in the art would recognize the advantage of determining whether any communication channel of the first communication group is free for acquiring meter reading, since the arrangement is establishes in a way to provide efficiency for different groups – that is each group may have only a channel to communicate from the group to its remote stations for its non-continuous operation.” (November 17, 2005 office action page 4). Applicant notes that the examiner has provided no reference that discloses efficiencies to be realized from splitting communication channels into different groups and determining whether any communication channel from the first communication group is free for acquiring meter reading. As set forth below, it is respectfully submitted that the examiner’s conclusion that efficiencies might be realized from such arrangement is no more than impermissible hindsight.

C. Yuji

In the November 17, 2005 Office action, the Examiner stated that Yuji discloses “access control method of communication system in which a master station communicates to a slave

station of a plurality of slaves in an available channel. A free channel is monitored and assigned to a slave by a reception part 13- see figure and/in the abstract.” (November 17, 2005 office action page 5).

It is respectfully submitted that there is no disclosure in Yuji of a plurality of communication channels divided into communication groups. Instead, the Yuji discloses a plurality of slave stations and a plurality of up channels wherein free channels are assigned according to an order set in an address table. (See abstract of Yuji). Thus, there is no disclosure in Yuji of the channels being divided into groups. This is in contrast to the present invention which involves determining whether any communication channel from a first group is free. Thus, because Yuji does not disclose communication channels divided into groups, Yuji can not possibly disclose the limitations of claim 15 for which Yuji was cited. In particular, Yuji does not disclose a central station operable to “determine whether any communication channel of the first communication group is free” (emphasis added). In addition, Yuji does not disclose a central station operable to perform the step of “waiting and repeating the step ... if it is determined that no communication channel of the first communication group is free” (emphasis added).

D. Modell in View of Yuji

It is respectfully submitted that the Examiner has failed to make a prima facie case of obviousness with respect to claim 15. In order to make a prima facie case of obviousness, “there must be some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings.” MPEP § 2143. In addition, “the prior art reference[s] ... must teach or

suggest all the claim limitations.” *Id.*

1. The References Do Not Teach or Suggest All Claim Limitations

First, the Examiner has failed to make a prima facie case of obviousness under MPEP § 2143 because neither Ozaki nor Yoo teach or suggest all of the limitations of claim 14, either alone or in combination. *See* MPEP § 2143.03.

One example of a limitation of claim 15 shown in neither Modell nor Yuki is that of a central station operable to “determine whether any communication channel of the first communication group is free.” In addition, neither Modell nor Yuji disclose a central station operable to perform the step of “waiting and repeating the step ... if it is determined that no communication channel of the first communication group is free.” The examiner has admitted in the November 17, 2005 office action that Modell does not include these limitations. Furthermore, as set forth above under section II.C., Yuji also does not disclose these limitations. Thus, because at least these two limitations of claim 15 are found in neither Modell nor Yuji, it is respectfully submitted that the Examiner’s has not made a prima facie case of obviousness with respect to claim 15.

2. There is No Suggestion or Motivation to Modify or Combine the References

In addition to the above, the examiner has failed to make a prima facie case of obviousness under MPEP § 2143 because the examiner has not established a motivation to combine Modell and Yuji. *See* MPEP § 2143.03. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the

art. MPEP § 2143.01 (emphasis added).

In the November 17, 2005 Office action, the examiner provided the following rationale for combining Modell and Yuji: “The suggestion/motivation for doing so would have been to provide efficiency for different groups – that is each group may have only a channel to communicate from the group to its remote stations for its non-continuous operation.” However, as noted above, Yuji does not even disclose the concept of different groups. Thus, applicant fails to see why one of skill in the art would have been motivated to combine the teachings of Modell with those of Yuji. To the contrary, combining Modell and Yuji would not cause one to arrive at the claimed invention, as limitations are missing. Absent a clear analysis and rationale for combining references as set forth above in MPEP § 2143.01, the Examiner’s conclusion that one of ordinary skill in the art would have found it obvious to combine the references is merely impermissible “hindsight.” See *In re Rouffet*, 149 F.3d 1350 (Fed. Cir. 1998). Because the examiner has not provided a proper suggestion or motivation for combining references in compliance with MPEP § 2143, the Examiner has failed to make a prima facie case of obviousness with respect to claim 15, and the Examiner’s rejection should be withdrawn.

As set forth above, the Examiner has not made a prima facie case of obviousness in the November 17, 2005 Office action. In particular, neither Modell nor Yuji teach or suggest all of the limitations of claim 15. Furthermore, there is no motivation to combine Modell and Yuji. Accordingly, the Examiner has not made a prima facie case of obviousness, and the rejection of claim 15 should be withdrawn.

III. The Examiner's Rejection of Claims 16-21 Under 35 U.S.C. § 103(a) Should be Withdrawn

In the November 17, 2005 Office action, the Examiner rejected dependent claims 16-21 under 35 U.S.C. § 103(a). Each of these claims depends from and incorporates all of the limitations of one of independent claim 15. As set forth above, the examiner's rejection of claim 15 should be withdrawn. Therefore, because each of dependent claims 16-21 depend from and incorporate all of the limitations of claim 15, the Examiner's rejection of dependent claims 16-21 should also be withdrawn for at least the same reasons.

IV. The Examiner's Rejection of Claims 8-14 Under 35 U.S.C. § 103(a) Should be Withdrawn

In the November 17, 2005 Office action, the examiner noted that claims 8-14 include similar limitations to claims 15-21. Accordingly, the examiner rejected claims 8-14 under 35 U.S.C. § 103(a) for the same reasons set forth in the rejection of claims 15-21. As set forth above, it is respectfully submitted that the examiner's rejection of claims 15-21 should be withdrawn. Accordingly, the rejection of claims 8-14 should be withdrawn for at least the same reasons.

V. Conclusion

For all of the foregoing reasons, it is respectfully submitted the Applicant has made a patentable contribution to the art. Favorable reconsideration and allowance of this application is, therefore, respectfully requested.

Respectfully submitted,

A handwritten signature in black ink that reads "Russ Fowler" with a long, sweeping horizontal line extending to the right.

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